

66926-0001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 12 2004

OFFICIAL

In re Application of:

Noah Clinch et al.

Serial No: 09/553,043

Filing Date: April 20, 2000

Title: MICROSCOPY

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) Art Unit: 2623
)
) Examiner: Mehrdad Dastouri
)
) Attorney Docket No.: 066926-001
)
) Via Facsimile: 703-388 5077

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 12, 2004

PETITION FOR REFUND
DEPOSIT ACCOUNT 04-2223

Dear Sir:

It is respectfully requested that a refund in the amount of \$750.00 be credited to Deposit Account No. 04-2223.

The amount \$750.00 represents the aggregate of the fee accompanying a Notice of Appeal filed July 29, 2004 in the amount of \$330.00; and the fee for A Petition for A Third Month Extension of Time in the amount of \$420.00 likewise filed on July 29, 2004.

Applicants filed a response to a Final Action on June 8, 2004. The response was faxed to Examiner Dastouri. The Examiner indicated that the response should be retransmitted to a different fax number or it would not be considered official.

Applicants' representative spoke to Examiner Au (Examiner Dastouri's supervisor) that the Amendment filed June 8, 2004 would be considered as an official response to the outstanding Office Action, and that no further response would be required.

Before July 29, 2004, Applicant's representative was later advised by Examiner Dastouri by telephone that the application was considered to be in condition for allowance

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A Notice of Allowance had not been received by July 29, 2004, the deadline for filing a Notice of Appeal with a three month extension.

Therefore, out of caution, Applicant filed a Notice of Appeal and a Request for a Third Month Extension on July 29, 2004.

It is believed that the Notice of Appeal and the Request for a Third Month Extension filed on July 29, 2004 was unnecessary as the case had already been allowed as a result of the filing of the June 8, 2004 Amendment.

Accordingly, it is requested that the refund be credited to deposit account 04-2223.

Respectfully submitted,

DYKEMA GOSSETT PLLC


John P. Deluca
Registration No. 25,505

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No 703 388 5077 on 8/12/04.


John P. Deluca, Reg. No. 25,505